

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments ) MM Docket No. 98-198  
FM Broadcast Stations ) RM - 9304  
(Cross Plains, Texas, et al.) )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**JOINT MOTION TO STRIKE REPLY COMMENTS**

First Broadcasting Management, L.L.C., WBAP/KSCS Operating, Ltd., Blue Bonnet Radio, Inc. and Hunt Broadcasting Inc., (collectively "Joint Parties") jointly, by their counsel, hereby move to strike from the record in this proceeding the Reply Comments submitted on January 5, 1999, by Wagonwheel Broadcasting of Santa Anna ("Wagonwheel") (1) for failure to serve any of the joint parties or undersigned counsel for the joint parties as required by Sections 1.420(b) and 1.1208 of the Commission's Rules and (2) due to the fact that Wagonwheel's Petition is not acceptable for inclusion in this proceeding. In support hereof, the joint parties state as follows:

1. Wagonwheel filed a Petition for Rule Making on December 10, 1998 to allot Channel 290C2 to Santa Anna, Texas. In its Reply Comments filed on January 5, 1999, Wagonwheel requests that its Petition be included in this proceeding due to a conflict with the joint parties suggestion in each of their respective Counterproposals that Channel 290C3 at Cross Plains, Texas be substituted for consideration as an alternative to Channel 245C3. However, the Petitioner, ALALATEX, failed to file Comments in support of Channel 245C3 at Cross Plains, even though it provided a statement for each of the joint parties to accept Channel 290C3 instead of Channel 245C3 for allotment to Cross Plains. Thus, the Commission does not have a clear and unequivocal interest on the part of ALALATEX or

any other party to apply for a station at Cross Plains.<sup>1</sup> Under these circumstances, the Commission should not accept the Wagonwheel Petition for consideration in this proceeding.

2. The basis for Wagonwheel having filed its Reply Comments is the purported conflict between its proposal for Santa Anna and the alternate channel proposed by the joint parties for Cross Plains. However, Wagonwheel failed to serve either the undersigned counsel or any of the respective proponents, First Broadcasting Management, L.L.C., WBAP/KSCS Operating, Ltd., Blue Bonnet Radio, Inc. or Hunt Broadcasting, Inc. This failure to serve is reflected on the service list as well as the fact that neither undersigned counsel nor any of the joint parties actually received a copy of the Reply Comments from Wagonwheel. The undersigned counsel became aware of this filing when one of the other parties notified undersigned signed counsel of the filing. Therefore, the Reply Comments constitute an ex parte submission in violation of Section 1.420(b) and 1.1208 of the Commission's Rules and should be stricken from the record.

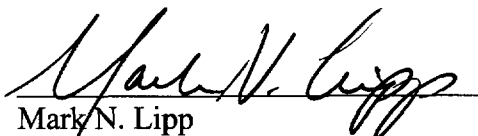
3. Accordingly, in view of the absence of a conflict between the Wagonwheel petition and any expressed interest in filing for a conflicting channel at Cross Plains, the Wagonwheel petition should not be accepted in this proceeding. In addition due to its failure to serve the proponents, Wagonwheel's Reply Comments should be stricken from the record in this proceeding.

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1. In a separate Counterproposal, Gulfwest Broadcasting Company and Sonoma Media Corp. filed an unacceptable proposal which included an interest in Channel 272C1 at Cross Plains. However Channel 272C1 does not conflict with Wagonwheel's petition for Channel 290C2 at Santa Anna.

Respectfully submitted,

FIRST BROADCASTING MANAGEMENT, L.L.C.  
WBAP/KSCS OPERATING, LTD.  
BLUE BONNET RADIO, INC.  
HUNT BROADCASTING, INC.

A handwritten signature in black ink, appearing to read "Mark N. Lipp", written over a horizontal line.

Mark N. Lipp  
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Their Counsel

January 20, 1999

## CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy & Bacon, do hereby certify that I have on this 20th day of January, 1999 caused to be mailed by first class mail, postage prepaid, copies of the foregoing **"Joint Motion to Strike Reply Comments"** to the following:

- |   |   |   |
|---|---|---|
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